REMARKS

I.   Summary of Office Action

In the office action mailed June 23, 2009, the Examiner rejected claims 1-40. Claims 1-5, 7-22, 24-27, 29-31, 33, 35, 37 and 39-40 were rejected under 35 U.S.C. § 101 as not limited to tangible embodiments. Claims 1-3, 6-7, 11-21, 23-26 and 28-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Killian (U.S. Patent No. 6,163,316) in view of Klosterman et al. (U.S. Patent No. 5,940,073). Claims 4-5, 8-10 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Killian in view of Klosterman and further in view of Slotznick (U.S. Patent No. 6,011,537).

II.   Status of Claims

Pending are claims 1-40, of which claims 1, 19, 24, 29, 33, 35 and 37 are independent and the remainder are dependent. Claims 1, 7-8, 11-12, 19, 24, 29, 33, 35 and 37 have been amended in this response.

III.   Response to 35 U.S.C. § 101 Rejections

The Examiner rejected claims 1-5, 7-22, 24-27, 29-31, 33, 35, 37 and 39-40 under 35 U.S.C. § 101 as not limited to tangible embodiments.

In this response, Applicants have amended independent claims 1, 19, 24, 29, 33, 35 and 37 to refer to tangible devices such as a "client system" located "at a remote location" and a "media-based device" at a "different physical location." The specification provides support for the claimed methods as being performed by tangible devices, such as a "media-based device" and a "computer program product." In fact, the specification makes clear "throughout the description" that the discussion "utilizing terms such as 'processing' or 'computing' or 'calculating' or 'determining' or 'displaying' or

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the like, *refer to the action and processes of a computer system, or similar electronic device.*" Specification, ¶ [0065]. Further, the drawings Figures 1-5, 9 and 10 specifically show the claimed tangible devices. Shown in Figure 10 are the physical devices, for example, as "Replay Unit 37," "Television 162" and "remote control device 170."

The "remote location" and "different physical location" amendments are also supported by the specification teachings, "The network computing system 15 enables multiple users to communicate over a communications system 19 in order to access and control the media-based devices and appliances of integration system 17 *from a remote location.*" Specification, ¶ [0189](emphasis added). The specification further teaches the application directed towards "the situation" where "the user is at a *different physical location.*" Specification, ¶ [0005](emphasis added).

IV. Response to the 35 U.S.C. § 103(a) Rejections

The Examiner rejected claims 1-3, 6-7, 11-21, 23-26 and 28-40 under 35 U.S.C. § 103(a) as being unpatentable over Killian in view of Klosterman.

A. Applicants' Specification and Claims Teach A User Remotely Enabling Recording From a Different Physical Location Than The Recording Device

Applicants' currently amended claims are directed to allowing television viewers to program recording devices to record TV shows when they are not at home in front of their TV ("where the user is at a different physical location and is thereby unable to access the device," Specification, ¶ [0005]). The disclosure teaches "multiple users" to "communicate over a communications system 10" to "access and control the media-based

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devices and appliances of media-based computing system 16 from a remote location."

Specification, ¶ [0074]. Applicants' specification apply where the user is not "in the same rooms" a the media device, but at a "different physical location."

> While these conventional techniques work well for those situations where the user is physically located within the vicinity (e.g., *typically in the same room* as the media-based) of the device, *they do not address the situation where the user is at a different physical location* and is thereby unable to access the device at such short ranges.

Specification, ¶ [0005]).

As such, each of the independent claims 1, 19, 24, 29, 33, 35 and 37 have been amended to more strongly emphasize the aspect of enabling recording from a "remote" location that is a "different physical location" than the media device being programmed:

> "*remotely* programming the media-based device *from a different physical location*" (Claim 1)

> "*remotely* programming the media-based device at *a remote location from the user*" (Claim 19)

> "the media-based device is *remotely located* at a *different physical location* from the client system" (Claim 24)

> "*remotely* accessing the media-based device . . . at a *different physical location*" (Claim 29)

> "*remotely located* at a *different physical location* than a media-based device" (Claim 33)

> "*remotely* programming the media-based device at a *different physical location*" (Claim 35)

> "*remotely* located media-based device at a *different physical location* from the user" (Claim 37)

As seen above, the user programs the recording from a "different physical location" that

is "remote" from the media-based device is called for by each of the independent claims.

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B. Klosterman and Killian Do Not Disclose The User Remotely Enabling Recording From a Different Physical Location

In contrast to Applicants' claims, the cited Klosterman and Killian prior art does not disclose "remotely programming" media devices from a "different physical location." Klosterman and Killian disclose using electronic program menu guides for users to select programs when they are "in the same room" as their television devices, the very situation distinguished by Applicants. Although the program guides obtain information downloaded from the Internet, neither Klosterman nor Killian disclose enabling recording "remotely" from a "different physical location." As discussed below, Klosterman and Killian only address when the user is in the same room as their devices They do not recognize the problem Applicants address, namely when the user is remotely located at a different physical location as their devices.

In particular, Killian shows in Figure 1 that the platform 12 is directly connected to provide the video and audio input signals to be displayed on the television.
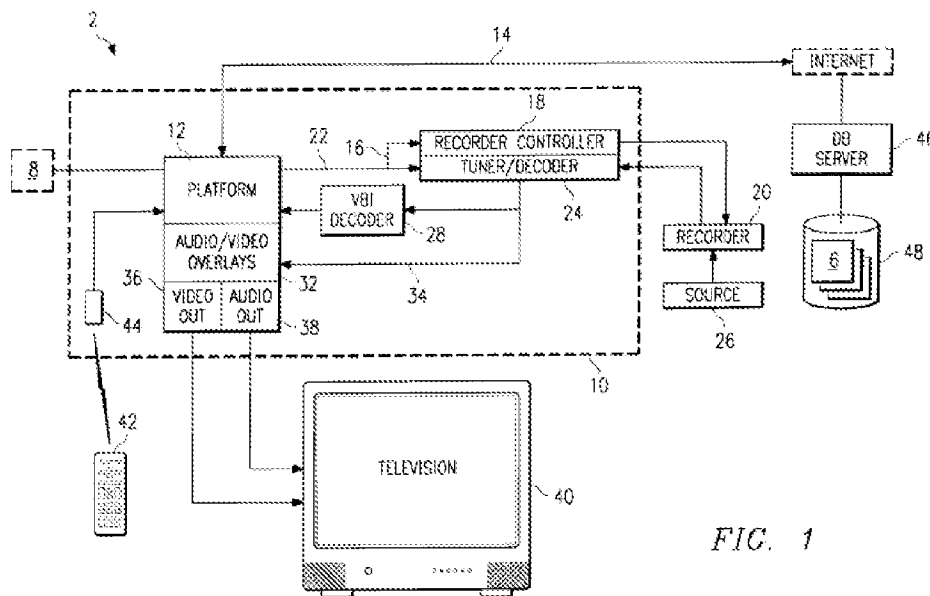

FIG. 1

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As seen Figure 1 above, the platform 12 is physically located within the receiver 10 that

provides the video and audio signals for display on the television. In fact, Figure 1 shows

the Internet (in the upper right corner), but the devices are not connected over the Internet

connection. Only the DB server 46 and database 48 are remotely connected over the

Internet connection.

Similarly, Figure 12 of Klosterman also shows the Program Guide Processor 1205

physically located with the television. In fact, the Program Guide Processor 1205

directly provides the video and audio of the television monitor 1215 or VCR 1220 with

signals received from an antenna or cable 1210.
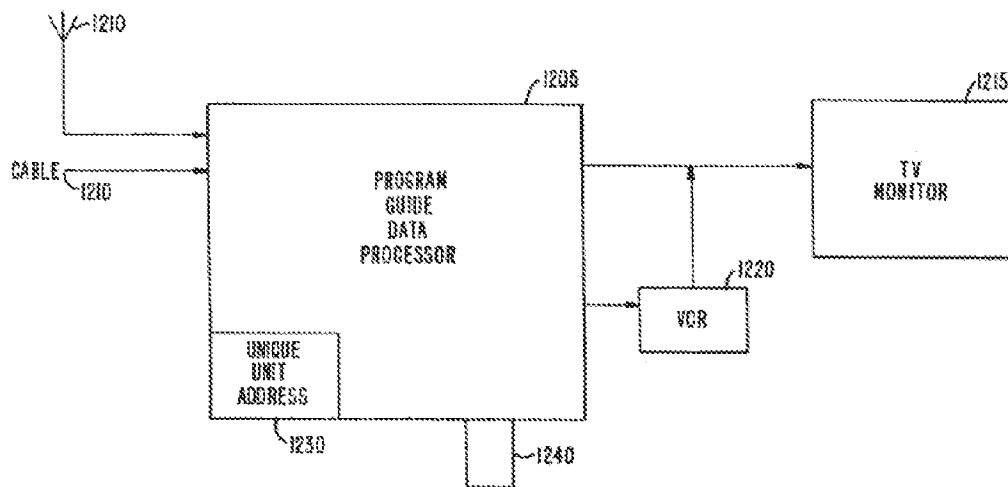
None of the components are shown connected over the cable 1210 network or antenna.

Thus, Klosterman also does not show remote operation from a different physical location.

The Klosterman system is directly connected to and providing the video and audio

signals being displayed on the television.

As a result, neither Klosterman nor Killian address remotely located elements and

thus do not recognize the situation addressed by Applicants' claims, much less disclose

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Applicants' claimed solution. The rejection based on Klosterman and Killian uses the references in a manner that is not supported by their disclosures.

For instance, Klosterman may teach a "data stream being sent to a web browser or a personal computer (pc); see column 4, lines 56-60, Klosterman," which "inherently" requires "a web/network." Office Action, pg. 23. While such may be the case, a PC capable of receiving a data stream, however, does not necessarily or inherently disclose remotely programming a recording device. Klosterman simply refers to the fact that a "data-stream may be provided to a personal computer for use with the computer and/or one or more of the above devices." Col. 4, lines 57-59. Thus, while it discloses providing a data-stream for use as a personal computer device, it does not discuss remotely recording programs from a different physical location and thus is not a basis to reject the current claims.

In fact, Klosterman only describes the devices to receive and display program guide information as directly connected or even integrated to the television. Col. 1, lines 57-63; Figure 12. Klosterman does not disclose remotely accessing the recording device from a different physical location. As only one location is shown in Klosterman, the Examiner's citation to the "user clicking on the advertisement and is able to schedule a recording; see column 2, lines 14-17," does not refer to remotely programming from a different physical location. Further, the recording device may be disparate from the PC, but Klosterman only teaches those devices being used together at the same location (shown in Figure 12), without any reference to remote programming from a different location.

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Killian also does not show remote programming from a different physical location. The Examiner argues that Killian teaches sending a command to the recorder. Like Klosterman, however, Killian simply refers to a system such as that of Figure 1 where the platform 12, receiver 10, television 40 and recorder 20 may be separate devices, but at the same location directly connected to each other. In fact, the Internet connection is shown in Figure 1, but it only shows the DB server 46 and database 48 remotely located. None of the other system elements are shown connected over the Internet. Because the devices at the same physical location are not connected over the Internet connection shown in Figure 1, Killian does not teach remotely programming recordings from another location. Rather it merely provides a way for viewers to program a recorder locally from the television itself. Thus, Killian does not recognize the problem of remote programming from a different physical location, much less disclose the solution to the problem.

As a result, the combination of Killian and Klosterman does not show Applicants' pending claims. Killian and Klosterman obtain information from the Internet to provide information for display, but they do not show remotely programming over a network to record programs. As such, independent claims 1, 19, 24, 33, 35 and 37 are all allowable.

C.   Klosterman Does Not Show Selecting An Advertisement of a Program To Record The Program Itself

Moreover, even assuming Klosterman did provide remote programming through a computer (which it does not), each of the independent claims are allowable for a second independent reason as well. Klosterman also does not teach that the "selection of the advertisement" causes "automatically remotely programming the media-based device to

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record *the broadcast program*" itself as called for by independent claims 1, 19, 24, 33, 35 and 37. Rather, Klosterman is clear that selection of the "advertising information regarding the product" causes the user to "see a billboard or schedule *recording of an infomercial of the product*," i.e., merely providing viewing or recording of more advertising for a program, not the broadcast program itself. Column 2, lines 14-17.

Applicant agrees that "the user is able to click on the advertisement and is able to schedule a recording; see column 2, lines 14-17, Klosterman." Office Action, pg. 23. Klosterman, however, still does not meet the claim language calling for "the media-based device *to record the broadcast program*." Klosterman only teaches recording more advertising such as "an informercial of the product"—it does not teach recording "the broadcast program" itself as called for by the independent claims.

As Klosterman discloses recording additional advertising ("informercial"), it does not teach remotely scheduling the recording of the claimed "*broadcast program*" itself, just another advertisement for the program. Thus, the prior art does not show pending independent claims 1, 19, 24, 33, 35 and 37. Because independent claims 1, 19, 24, 33, 35 and 37 are allowable, all pending claims 2-18, 20-23, 34, 36 and 38-40 depend from the allowable independent claims and are also allowable for the same reasons.

D.   Claims 3, 20 and 25 Are Further Allowable As Killian and Klosterman Do Not Disclose a One-Click Programming Method

Dependent claim 3 recites that selection of the advertisement and automatic programming of the media-based device is invoked by one click on a hyperlink. This claim was rejected on the ground that "Klosterman it is taught how a user can click on an

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ad which results in the recording of the corresponding infomercial; see column 2, lines 14-17, Klosterman." Office Action, pg. 25.

Though the initial click may eventually result in the recording, Klosterman does not actually teach that it can be accomplished in one click. Klosterman teaches that "the user may click on the information region to see a billboard or schedule a recording of an infomercial on the product." Col. 2, lines. Klosterman does not teach that a single click on the information region automatically makes the recording, rather, clicking on the information region takes the user to further schedule the recording. The first click only allows to further schedule a recording. Thus, claim 3 is not rendered obvious by Killian and Klosterman and claim 3 is allowable.

Claims 20 and 25 similarly recite that "the media-based device records the broadcast program with one click ... of the advertisement." Again, the prior art does not disclose a broadcast program being recorded with a single click on an advertisement. Thus, claims 20 and 25 are also allowable for this reason as well.

V. Conclusion

Applicant respectively submits that, in view of the remarks above, all of the pending claims 1-40 are allowable over the cited references. Applicant, therefore, respectfully requests withdrawal of the current rejections. The Examiner is invited to call the undersigned at (312) 913-2134 with any questions or comments.

Respectfully submitted,

Date: __September 23, 2010__   By: ___/George I. Lee/_____
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